IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUMMONS FOR JUDGMENT NO. 522 OF 2003

IN

SUMMARY SUIT NO.3964 OF 2002

Shri Rajesh S.Varma .. Plaintiff

vs

Shri Vithaldas Parekh & ors .. Defendants

Mr.V.P.Vaze for Plaintiff

..

CORAM: D.G.KARNIK, J

DATED 22nd March, 2005.

P.C.

1. Heard learned counsel for the plaintiff. None present for the defendants.

2. Learned counsel for the plaintiff hands in the affidavit of service proving the service of Summons for Judgment on the defendants. The affidavit is taken on record and marked Exhibit A. Learned counsel for the plaintiff also hands in the original documents along with a list. The documents are taken on record

and collectively marked Exhibit B.

3. The defendants have not filed an application for leave to defend nor filed any affidavit in reply. I have perused the plaint and the original documents filed on record. The plaintiff advanced to the defendant no.1 a loan of Rs.6,75,000/-. The defendant no.1 executed 5 different bills of exchanges totally for Rs.6,75,000/-. The said bills of exchanges were accepted by the defendant nos. 2 and 3. The defendant no.1 also issued five cheques totally for Rs.6,75,000/-. However, all the 5 cheques when presented for payment were dishonoured. The plaintiff also produced on record the original bills of exchange as well as the five cheques and the dishonour memos. The plaintiff has also filed on record a copy of the notice of demand and the acknowledgments. Despite the notice, the defendants failed and neglected to make the payment.

4. In the absence of any affidavit in reply the averments made in the plaint are deemed to be accepted. The plaintiff is also entitled to a decree under order 37 Rule 3 (6) of the Code of Civil Procedure.

5. For these reasons, Summons for Judgment is made absolute and suit of the plaintiff is decreed in terms of prayer clauses (a) and (b) with modification that interest from the date of the suit till payment would be at 18 % p.a.

D.G.KARNIK, J